

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LAVELLE TODD,

Plaintiff,

21-cv-05226-CS

NOTICE OF MOTION

-against-

A. COLOMBOS,
CORRECTIONAL OFFICER,

Defendants.

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PLEASE TAKE NOTICE that defendant A. COLOMBOS (“Defendant”), by their attorney, LETITIA JAMES, Attorney General of the State of New York, upon the annexed Memorandum of Law, will move this Court before the Honorable Cathy Seibel, United States District Court Judge for the Southern District of New York, at the United States Courthouse located at 300 Quarropas Street, White Plains, New York, 10601, at a date and time to be determined by the Court, for an order pursuant to Rule 12(b) (1) and (6) of the Federal Rules of Civil Procedure dismissing the Amended Complaint on the grounds that: (i) Plaintiff has failed to include non-conclusory allegations on which a cause of action can be based; (ii) Plaintiff’s alleged deprivation was reasonably related to the penological interest of institutional security; (iii) Defendant is entitled to qualified immunity; (iv) plaintiff has failed to suffer a sufficiently serious deprivation to qualify for cruel and unusual punishment; and (v) because the Eleventh Amendment bars official capacity damages claims.

Pursuant to the Court’s May 6, 2022 Order, opposition papers, if any, are due by August 12, 2022; and reply papers, if any, are due by August 26, 2022.

Dated: New York, New York
July 12, 2022

Respectfully submitted,

LETITIA JAMES
Attorney General of the
State of New York
Attorneys for Defendants
By:

/s/ Andrew Blancato
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